

Internal Revenue Service

Department of the Treasury
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August 22, 2012

In re: Request under §§ 301.9100-1 and
301.9100-3 for an extension of time to make
an election under § 263(c) and § 1.612-4

LEGEND:

Taxpayer =

Date =

Dear :

This letter responds to a letter, dated July 6, 2012, from Taxpayer's representative requesting an extension of time, pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations, for Taxpayer to make an election under § 263(c) of the Internal Revenue Code for the taxable year ending Date.

Taxpayer, an oil and gas joint venture treated as a partnership for federal income tax purposes, is an accrual method taxpayer that files a federal partnership income tax return on a calendar year basis.

According to the information submitted, Taxpayer did not timely make the election under § 263(c) for the taxable year ending Date. Taxpayer has made representations explaining why the election under § 263(c) was not timely filed.

Section 263(c) allows a taxpayer an election, under regulations prescribed by the Secretary, to deduct IDC. Those regulations are set forth in § 1.612-4 of the Income Tax Regulations.

Under § 1.612-4(d), a taxpayer may exercise the election to expense IDC by claiming IDC as a deduction on the taxpayer's return for the first taxable year in which the taxpayer pays or incurs IDC. No formal statement is necessary, but if the taxpayer fails to deduct IDC, the taxpayer is deemed to have elected to recover IDC through depletion to the extent that they are not represented by physical property and through depreciation to the extent that they are represented by physical property. Under § 1.612-4(e), an election under § 263(c) is binding on the taxpayer for the first taxable year for which it is effective and for all subsequent taxable years.

Under § 301.9100-1, the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election or a statutory election, (but not more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election under § 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based solely on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied with respect to the taxable year ending Date. Accordingly, an extension of time is hereby granted, until 60 days from the date of this ruling, for Taxpayer to make an election under § 263(c) for the taxable year ending Date.

Except as specifically set forth above, we express or imply no opinion concerning the federal income tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion concerning whether Taxpayer owns working interests in oil and gas properties or whether any costs paid or incurred by Taxpayer qualify as IDC under § 263(c) and § 1.612-4.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

In accordance with the power of attorney, we are sending copies of this letter to Taxpayer's authorized representatives. We also are sending a copy of this letter to the appropriate Industry Director, LB&I. A copy of this ruling must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By:

Brenda M. Stewart
Senior Counsel, Branch 6
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):
Copy of this letter ruling
Copy of this letter ruling for § 6110 purposes

cc: